

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARY HERNANDEZ,

Plaintiff,

v.

SYLVIA ORELLANA,

Defendant.

CASE NO. C19-01476-RAJ

**ORDER DISMISSING  
PLAINTIFF'S COMPLAINT**

This matter comes before the Court *sua sponte*. For the reasons that follow, the Court **DISMISSES** *pro se* Plaintiff Mary Hernandez's complaint with leave to amend. Dkt. # 3.

On September 13, 2019 Plaintiff filed this action against Defendant Sylvia Orellana. Dkt. # 1-1. Plaintiff also submitted an application to proceed *in forma pauperis*. Dkt. # 1. The Honorable Brian A. Tsuchida granted the application. Dkt. # 2.

The Court's authority to grant *in forma pauperis* status derives from 28 U.S.C. § 1915. The Court is required to dismiss an *in forma pauperis* plaintiff's case if the Court determines that "the action . . . (i) is frivolous or malicious; (ii) fails to state a claim on

1 which relief may be granted; or (iii) seeks monetary relief against a defendant who is  
2 immune from such relief.” 28 U.S.C. § 1915(e)(2)(B); *see also See Lopez v. Smith*, 203  
3 F.3d 1122, 1129 (9th Cir. 2000) (“[S]ection 1915(e) applies to all in forma pauperis  
4 complaints, not just those filed by prisoners.”). A complaint is frivolous if it lacks a basis  
5 in law or fact. *Andrews v. King*, 398 F.3d 1113, 1121 (9th Cir. 2005). A complaint fails  
6 to state a claim if it does not “state a claim to relief that is plausible on its face.” *Bell Atl.*  
7 *Corp. v. Twombly*, 550 U.S. 544, 568 (2007).

8 Before proceeding further with this matter, the Court is obligated to determine  
9 whether it has subject matter jurisdiction. *Moore v. Maricopa Cty. Sheriff’s Office*, 657  
10 F.3d 890, 894 (9th Cir. 2011); Fed. R. Civ. Proc. 12(h)(3) (“If the court determines at any  
11 time that it lacks subject-matter jurisdiction, the court must dismiss the action.”). Absent  
12 jurisdiction, any determination on the merits would be void. *Watts v. Pickney*, 752 F.2d  
13 406, 409 (9th Cir. 1985). Original jurisdiction may be based on diversity or the existence  
14 of a federal question, as set forth in 28 U.S.C. §§ 1331 and 1332. Federal courts have  
15 jurisdiction over civil actions where the amount in controversy exceeds \$75,000,  
16 exclusive of interest and costs, and the case is between citizens of different states. 28  
17 U.S.C. § 1332.

18 In her Complaint, Plaintiff alleges that the jurisdictional basis for this action is  
19 diversity of citizenship under 28 U.S.C. § 1332. Dkt. # 3 at 1, 4. However, based on the  
20 facts alleged in the Complaint, it appears that Plaintiff and Defendant Sylvia Orellana are  
21 both residents of Washington. Dkt. # 3 at 4. As a result, complete diversity does not  
22 exist. 28 U.S.C. § 1332(a)(1). In addition, Plaintiff fails to allege facts supporting  
23 damages in excess of \$75,000. *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696, 699  
24 (9th Cir. 2007) (internal quotation omitted). Plaintiff alleges in her Complaint that  
25 Defendant owes her \$30,000, but this is well below the \$75,000 threshold. Dkt. # 3 at 5.  
26 To the extent Plaintiff is attempting to assert federal question jurisdiction, Plaintiff has  
27 not identified a federal law or statute underlying her claims and the Court cannot

1 ascertain one. In sum, Plaintiff makes no allegations that support a finding of federal  
2 question jurisdiction or diversity jurisdiction.

3 For the reasons stated above, the Court **DISMISSES** Plaintiff's Complaint.  
4 Dkt. # 3. **Within fourteen (14) days from the date of this Order**, Plaintiff may file an  
5 amended complaint addressing the deficiencies addressed above. If Plaintiff does not file  
6 an amended complaint within that timeframe, or if Plaintiff files an amended complaint  
7 that does not state a cognizable claim for relief or is otherwise untenable under § 1915(e),  
8 the Court will dismiss this action with prejudice.

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10 Dated this 22nd day of November, 2019.

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14 The Honorable Richard A. Jones  
15 United States District Judge  
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